

1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2 -----x  
UNITED STATES OF AMERICA,

3 Plaintiff,

Docket No.:

15 CR 637 (KAM)

4 versus

5 MARTIN SHKRELI,

U.S. Courthouse

225 Cadman Plaza East

6 Defendant.

Brooklyn, NY 11201

7 -----x

August 3, 2017

9:00 a.m.

9 Transcript of Criminal Cause for Trial

10 Before: HONORABLE KIYO A. MATSUMOTO,  
District Court Judge  
11 (and a jury.)

12 APPEARANCES

13 For the Government:

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24 Proceedings recorded by mechanical stenography. Transcript  
25 produced by computer-aided transcription.

MICHELE NARDONE, CSR - Official Court Reporter

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1 (In open court.)

2 (Defendant present.)

3 THE COURT: Hi. Good morning.

4 MR. BRAFMAN: Good morning, Your Honor.

5 MS. KASULIS: Good morning.

6 THE COURT: Have a seat, please. We are still  
7 awaiting the arrival of one juror.

8 Juror number 2 reported to the case manager, our  
9 deputy here, a comment that I want to report to you; and we  
10 should talk about perhaps discussing this with the juror  
11 involved.

12 Would you like to convey what Juror number 2 told you?

13 THE CLERK: Yes, judge. Juror number 2 came up to me,  
14 and she stated that she overheard on her way to the courthouse  
15 a member of the press stating that Elizabeth the sketch artist  
16 stated there is two to three holdouts.

17 MR. BRAFMAN: I'm sorry?

18 THE CLERK: That --

19 THE COURT: Go ahead. Maybe you should say it into  
20 the microphone. I'm sorry.

21 THE CLERK: Sure. Juror number 2 overheard, on her  
22 way to the courthouse, that a member of the press stated that  
23 Elizabeth the sketch artist stated there were two to three  
24 holdouts.

25 THE COURT: Now, I don't know who Elizabeth the sketch

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1 artist is.

2 MS. WILLIAMS: I am, and I apologize, Your Honor. I  
3 was just talking to my crew. They were asking me what I  
4 thought, and there were no jurors present when I was speaking  
5 to my crew; and I, you know, they were asking me what do you  
6 think of the jurors, and I was simply commenting in  
7 conversation with my crew, and I never --

8 THE COURT: Do you have any reason to say that? Were  
9 you speaking to a juror?

10 MS. WILLIAMS: I didn't say that to the juror, no,  
11 Your Honor.

12 THE COURT: What is your name?

13 MS. WILLIAMS: My name is Elizabeth.

14 THE COURT: Elizabeth what?

15 MS. WILLIAMS: Williams.

16 THE COURT: Williams. So when you say you did state  
17 to your crew, there were two or three holdouts --

18 MS. WILLIAMS: I just -- they asked me very early this  
19 morning, around 7:15, when I arrived here, oh, what do you  
20 think; and I said, well, some of them looked frustrated when  
21 they came in, and I was just saying, you know, that it was --  
22 they were asking me what do you think, and it was just my  
23 opinion; but there were no jurors present, Your Honor.

24 THE COURT: Well, there was a juror present because  
25 she heard you say it.

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1 MS. WILLIAMS: She heard me say it, or she heard my  
2 crew say it, that they said?

3 THE COURT: I guess your crew was talking.

4 MS. WILLIAMS: About what I had said.

5 THE COURT: Yes.

6 MS. WILLIAMS: And I need to tell my crew not to  
7 repeat those things that I say in public, but I know, quite  
8 frankly, what the jurors look like, and I know who -- I mean I  
9 know what they look like. I would never say anything like  
10 that, Your Honor, in front of a juror ever, ever.

11 I mean that would just never -- I mean, I have been  
12 doing this for 30-some-odd years, and that must have been one  
13 of my members of my crew, who I will have to go tell to not say  
14 those things in public out here, because you don't know who is  
15 walking by. I mean, it was just my opinion, and they asked me  
16 what does the jury look like. I said maybe there is a couple  
17 of holdouts. I don't know. It just looked like, you know,  
18 some of them looked frustrated, some of them, but, you know, it  
19 was just my opinion. It wasn't like -- they will ask during a  
20 trial. They will ask.

21 THE COURT: I just want to make sure you did not speak  
22 to any juror.

23 MS. WILLIAMS: No.

24 THE COURT: You were just expressing your own opinion.

25 MS. WILLIAMS: To my crew, to my crew.

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1 MR. BRAFMAN: May I make a suggestion?

2 THE COURT: Yes, Mr. Brafman.

3 Juror number 2 did tell the deputy that she could  
4 elaborate further, if necessary.

5 MR. BRAFMAN: Well, my suggestion, Your Honor, is that  
6 you speak to the juror in our presence, alone; and that if in  
7 fact what happened is what the sketch artist claims, then I  
8 think your instructing her that this was, you know,  
9 unauthorized, random speculation, she is to ignore it, and put  
10 it out of her mind, and continue the deliberations, and please  
11 not discuss it with her fellow jurors.

12 That's my main concern, that she not repeat the  
13 conversation to her fellow jurors.

14 MS. KASULIS: I think that sounds appropriate, Your  
15 Honor, considering the circumstances.

16 THE COURT: All right. Why don't we bring Juror  
17 number 2 in.

18 (Pause.)

19 (Juror number 2 enters the courtroom at 9:26 a.m.)

20 THE COURT: Hello, Juror number 2. Good morning.  
21 Just have a seat. Thank you.

22 We just wanted to explore further what you reported to  
23 the deputy this morning. So, we won't identify you by name at  
24 this point, but obviously -- have a seat, please. We would  
25 just like to know what you overheard, and let me first ask you:

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1 Have you discussed this with any of your fellow jurors?

2 JUROR: No, I have not.

3 THE COURT: I appreciate that very much. Will you  
4 please tell us what you overheard.

5 JUROR: As I came to the front, one of the camera  
6 people said to another camera person that the sketch artist for  
7 the court, Elizabeth, had told him that there were one or two  
8 holdouts.

9 THE COURT: All right. Well --

10 JUROR: Two to three holdouts. I'm sorry.

11 THE COURT: Two to three.

12 JUROR: Two to three holdouts.

13 THE COURT: What we were able to ascertain from the  
14 sketch artist was that she was just speculating and probably  
15 making comments that were, A, not appropriate for public  
16 discussion in an area where a juror could overhear. I think  
17 she was aware that there were no jurors at the time, but her  
18 staff may not have been aware of your presence when they were  
19 just speculating.

20 We want to make sure that these comments will not  
21 affect your deliberations.

22 JUROR: No.

23 THE COURT: And that you will continue, that you will  
24 be able to continue to deliberate with your fellow jurors based  
25 only on the evidence and the instructions of law. Will you be

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1 able to do that, ma'am?

2 JUROR: Yes, I will.

3 THE COURT: Will you be able to put that comment out  
4 of your mind?

5 JUROR: Yes, I will.

6 THE COURT: All right. Now, I would also ask you not  
7 to share that comment with any fellow jurors, if you would.  
8 Would you agree to do that, just keep it to yourself?

9 JUROR: Yes, I would.

10 THE COURT: All right. Thank you very much.

11 Let me ask you then to please retire to the jury room,  
12 and we will soon, when your fellow jurors -- are they all there  
13 yet?

14 JUROR: Yes, they are.

15 THE COURT: All right. Great. Thank you.

16 We will then ask you to retire. You may tell the  
17 jurors that they may start their deliberations, given that all  
18 12 are there. Okay.

19 JUROR: Thank you, Your Honor.

20 THE COURT: Thank you so much for your service. I  
21 appreciate it.

22 (Juror number 2 exits courtroom at 9:28 a.m.)

23 THE COURT: All right. Have a seat. Is there  
24 anything anyone else needs to bring to my attention?

25 I would just please ask, be careful, press and

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1 everybody else.

2 MS. WILLIAMS: I'm going to go down and tell them  
3 right now.

4 THE COURT: We have come this far. We just want to  
5 make sure that the jury can focus on the work before it and not  
6 be distracted by speculation.

7 MS. WILLIAMS: I'm going to go down and talk to them  
8 right now.

9 THE COURT: I appreciate it. Thank you.

10 MS. WILLIAMS: Absolutely.

11 THE COURT: All right. Thank you.

12 MS. KASULIS: Thank you, Your Honor.

13 THE COURT: Thanks.

14 (Court in recess awaiting the verdict of the jury.)

15 (In open court.)

16 (Defendant present.)

17 (Court Exhibit 11 so marked.)

18 THE COURT: Please have a seat. We have a note that  
19 we have mark as Court Exhibit number 11 and, again, we are  
20 giving copies to the counsel for the parties. The jurors are  
21 ready to be dismissed this evening.

22 So we will bring them in, admonish them, and excuse  
23 them for the evening.

24 (Pause.)

25 THE COURT: May I just please also ask that the media



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1 be mindful that the jurors may be walking through the park and  
2 just try to keep any comments to yourselves, if you are aware  
3 that they are in your presence. It's very important that they  
4 not overhear anything you may have to say about the case. I  
5 would appreciate it.

6 (Pause.)

7 (Jury enters at 5:32 p.m.)

8 THE COURT: All our jurors are present. Please have a  
9 seat, everybody.

10 I would like to thank the jurors again for another day  
11 of hard work. I appreciate it, as do the parties.

12 We are prepared to dismiss you for the evening; and,  
13 again, we would just like to remind you to please not discuss  
14 anything regarding your deliberations. Please avoid all  
15 exposure to any media or outside comments or anything else that  
16 you might hear outside the courtroom. I remind you that the  
17 case is to be decided based solely on the evidence at the trial  
18 and the instructions that I have given you on the law.

19 We are very grateful for your time and efforts. Have  
20 a good evening. We will see you tomorrow at 9:00, and when you  
21 are all here you can recommence your deliberations. Thank you  
22 very much.

23 (Jury exits at 5:33 p.m.)

24 THE COURT: All right. Thank you. I will see you in  
25 the morning.

1 MR. BRAFMAN: Thank you, Your Honor. Have a good  
2 night.

3 (Trial adjourned to Friday, August 4, 2017, at  
4 9:00 a.m.)

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6  
7 Certified to be a true and accurate transcript.  
8 /s/ Michele Nardone  
MICHELE NARDONE, CSR -- Official Court Reporter

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Court Exhibit 11

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